

[DRAFT: March 14, 2023]

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN RE VIDEO CONFERENCING FOR)
POLICE DISCIPLINARY HEARINGS)

FOURTH GENERAL OMNIBUS ORDER

On July 24, 2020, during the height of the COVID-19 pandemic, the Police Board entered a General Omnibus Order on conducting disciplinary hearings via two-way video conferencing (such as the Zoom platform). On June 17, 2021, following a decline in cases and hospitalizations, increasing vaccinations, updated guidance from the U.S. Centers for Disease Control and local authorities, and a re-opening of City of Chicago offices, the Board entered a Second General Omnibus Order. The Second General Omnibus Order determined that conducting hearings via Zoom was no longer necessary in many circumstances. On January 20, 2022, however, the Board entered the Third General Omnibus Order due to the record numbers of COVID-19 cases and hospitalizations. The Board determined that conducting hearings via Zoom was once again “necessary to further an important public policy” in many circumstances. Since then, the number of cases has continued to decline and Governor Pritzker recently announced that the state’s public health emergency will formally end on May 11, 2023. The Board now sets forth this Fourth General Omnibus Order, which continues to authorize a Hearing Officer to order that the evidentiary hearing be conducted via Zoom if good cause exists to do so. Therefore, the January 20, 2022, Third General Omnibus Order is hereby **vacated** and replaced with this Fourth General Omnibus Order.

Hearings via Zoom have become commonplace in light of the COVID-19 outbreak,

including hearings before the Police Board, and there have been minimal complications.

Indeed, evidence is able to be presented, witnesses are able to be observed, and attorneys are able to confer with the client and the Hearing Officer. Many types of evidence have been presented to the Police Board in Zoom hearings without incident, including photographic, video, and demonstrative evidence. In addition, in May 2020, the Illinois Supreme Court enacted Rule 45, which recognized that telephone and video conference appearances can be used effectively and appropriately for both civil and criminal cases. Effective January 1, 2023, Rule 45 was amended to expand the use of remote appearances in circuit court proceedings.¹ In proposing the amended rule, the task force sought to assure the continued and flexible use of remote appearances. The amended Rule 45 gives discretion to individual judges on a case-by case basis and circuits by local rule to determine if an in-person appearance is necessary. By proposing the new Rule 45, the task force sought to build on the practice and acceptance of remote appearances in both criminal and civil cases. In light of this history, and recognizing that nothing in state law, the Municipal Code of Chicago, or the Police Board's Rules of Procedure prohibits the Board from conducting disciplinary hearings via Zoom or requires the Board to hold in-person hearings, the Board finds that conducting all or a portion of an evidentiary hearing via Zoom is warranted in many instances.

Under this Fourth General Omnibus Order, the parties are once again strongly encouraged to work together to determine whether, for the convenience of all involved, any aspect of the hearing should be conducted remotely. If the parties are unable to agree and one party seeks to hold all or a portion of the hearing in person, that party shall file a motion, and it is then within the discretion of the Hearing Officer assigned to the case to grant or deny such motion. In so ruling, the Hearing

¹ Ill. Sup. Ct. R. 45 (eff. Jan. 1, 2023).

Officer must find good cause exists to justify remote participation for any particular witness or portion of the hearing. It shall also be within the discretion of the Hearing Officer to order and enforce rules for in-person proceedings to protect the health and safety of the participants and the public, including, but not limited to, using clear dividers between participants, requiring the wearing of a mask by all persons in the hearing room, and setting up the room to allow for social distancing.

In the event that conducting some or all of the disciplinary hearing via Zoom is allowed, counsel and all case participants shall behave as if they were present in person. For example, counsel is prohibited from communicating with witnesses during the hearing, and the Respondent shall have the ability to confer privately with counsel during the conference. Recording the proceeding is not allowed by anyone except the Hearing Officer or the staff of the Police Board through the approved recording system. For security and enforcement of Police Board standards, the Board may disable certain video conferencing features (including but not limited to chat, screen share, whiteboard, Q&A, raise hand, or react). The public shall have access to the Zoom proceeding via audio conference.

The Hearing Officer is authorized to conduct pre-hearing conferences via Zoom and to conduct status hearings via Zoom or audio conference.